

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-721

December 17, 1999

PUBLIC UTILITIES COMMISSION
Amendments to Chapter 321

ORDER ADOPTING RULE AND
STATEMENT OF FACTUAL AND
POLICY BASIS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

Through this Order, we amend certain portions of Chapter 321, the rule that governs load obligations and settlement calculations for competitive electricity providers (CEPs). The amendments modify terminology to be consistent with other rules, clarify the intent of the original profiling methodology language, add provisions regarding northern Maine, specify how CEPs will be identified for settlement purposes, add cross-references to other rules, and change the annual reporting date.

II. BACKGROUND

By order dated October 13, 1998, the Commission adopted Chapter 321 of its rules. This rule governs the process, methods and terms by which transmission and distribution (T&D) utilities will develop hourly load estimates and monthly energy reconciliations of CEPs' load obligations. The rule also contains load profiling and individual customer metering requirements. The amendments to the rule result from ongoing efforts to implement electric industry restructuring. These efforts have revealed areas of the current rule in which amendments are either necessary or desirable. The amendments do not substantively change the procedures or intended effects of the existing rule. We discuss below each of the amendments to the rule.

III. RULEMAKING PROCESS

On October 19, 1999, the Commission issued a Notice of Rulemaking, proposing several amendments to the existing rule. Consistent with rulemaking procedures, Central Maine Power Company (CMP), Bangor Hydro-Electric Company (BHE), and Maine Public Service Company (MPS) filed comments on the proposed rule.

IV. DISCUSSION OF PROPOSED AMENDMENTS

A. Definitions (Section 1)

The amended rule contains minor changes to the definitions of "aggregator" and "broker" to be consistent with statutory language and terminology used in other rules. We have also added definitions of "ISO-NE Control Area," "Maritimes

Control Area,” and “Northern Maine ISA.” The inclusion of these definitions results from adding more specific language on the settlement process in northern Maine. We discuss this aspect of the proposed rule in section IV (E), below.

B. Obligations (Section 2)

We have simplified the language in section 2.B to clarify that it is only aggregators and brokers that are exempt from the rule’s provisions. We received no comments on this amendment, and it is unchanged from the proposed rule.

C. Telemetry (Section 3)

We have changed the name and description of the class of customers that are required to have telemeters for settlement purposes. We make this change to be consistent with the terminology used in our standard offer rule, Chapter 301, to avoid the confusion we have observed among market participants to date. The current rule refers to customers with loads above those of the “Large Commercial and Industrial Profile Group.” This term is described in section 4.A.2 of the existing rule. The description of this customer group is essentially the same as the standard offer customer class referred to as “Medium Non-Residential” in Chapter 301. Similarly, the group of customers referred to as those with loads in excess of the large commercial and industrial group (in the existing Chapter 321) is essentially the same as the “large non-residential” standard offer class in Chapter 301. Accordingly, we have changed the name of the customer group in section 3.A to “Large Non-Residential” to be consistent with Chapter 301. We have also changed the description of the customer group to that contained in Chapter 301. This description is more straightforward and easier to apply, because it identifies customers by reference to existing utility customer class definitions. Finally, we have added language to make it clear that customers above specified maximum demand levels must be telemetered for settlement purposes. We received no comments on these amendments, and they are unchanged from the proposed rule.

Finally, we have added language to section 3.B to clarify that utilities should continue to use telemetry to measure loads as long as the equipment remains installed. For example, a competitive provider may pay to have a telemeter installed for a customer who subsequently changes to another provider. Because telemeters are a more accurate means to measure load, the amended rule states that the utility should continue to use the equipment until it is removed (e.g., customer or a competitive provider pays the cost to replace the meter).

D. Load Profiles (Section 4)

1. Customer Groups

For the reasons discussed above, we have changed the customer group names and descriptions contained in section 4.A to be consistent with those of Chapter 301. Specifically, we have changed “Small Commercial and Industrial” to

“Small Non-Residential,” and “Large Commercial and Industrial” to “Medium Non-Residential.” In addition, we have clarified the treatment of deemed and telemetered loads in the residential group. Lastly, we have also made a minor revision to section 4.A.1 to improve consistency with section 5.A.1 and to clarify that all telemetered customers will be settled on their telemetered load data. We received no comments on these amendments and they are unchanged from the proposed rule.

2. Profiling Methodology

Section 4.B of the rule provides for the statistical sampling methodology for load profiles. For greater clarity, we have added references to the ISO-NE and Maritimes control areas to section 4.B.1.a of the amended rule.

After the adoption of the existing rule, CMP requested the opinion of the General Counsel as to the interpretation of section 4.B.1.b and c. CMP expressed the concern that the language of the rule could be read to require 100% accuracy in the peak hours of all months and in all hours of the year. The General Counsel responded that these provisions were intended only to encourage consideration of the referenced variables, if reasonably possible. *Opinion of General Counsel*, 99-1 (Jan. 21, 1999). The proposed rule modified these provisions to clarify the intent as expressed in the General Counsel Opinion.

MPS commented that the proposed rule remained unclear even with the proposed modifications, and that the “highest possible level” language could cause a substantial increase in sampling expense. MPS suggested that the rule either include a 90% confidence level or specify acceptable methodologies. By adding the language “to the extent that it is practicable,” the proposed rule intended to address MPS’s concern regarding substantial sampling expense. However, to further clarify our intent, we have replaced the terminology “highest possible level” with “high level” in the amended rule.

E. Daily Estimation of Hourly Loads (Section 5)

As part of the settlement process, utilities must report hourly loads to the regional bulk power administrator. At the time the existing rule was adopted, no entity existed to perform the retail settlement process in northern Maine. For that reason, the existing rule stated that utilities in northern Maine shall report the data in a manner to be determined by the Commission. Subsequently, the Northern Maine ISA was created to administer the settlement process in northern Maine. Accordingly, we have revised the rule to specify that the data be reported to the Northern Maine ISA.

We have also added a provision to section 5 of the amended rule that specifies that all reporting to the system administrators shall be by Load Asset I.D. Number. The existing rule contemplated that reporting be done by each individual CEP. A problem with this approach is that a CEP would have to be a NEPOOL member and recognized by the ISO-NE as a load serving entity in order to have a settlement

account. However, our licensing rule explicitly states that a CEP does not have to be a NEPOOL member; it could satisfy its transactional requirements through a contractual relationship with a NEPOOL member. Ch.305, § 2 (B)(2). Moreover, during discussions in Commission-initiated working groups (i.e. utility/CEP contracts Docket No. 99-170 and Electronic Business Transactions Docket No. 98-522), potential suppliers indicated that they may want more than one settlement account. The ISO-NE requires information to be provided to it by Load Asset I.D., and it will issue several numbers to individual entities. Thus, a NEPOOL member could use its multiple accounts to differentiate between its own products, or to contractually assign one or more of its I.D. numbers to non-NEPOOL members so that a CEP would not have to be a NEPOOL member to participate in Maine's market. It was agreed among the members of the working groups that settlements should be differentiated by Load Asset I.D. Number. We received no comment of these amendments, and they are unchanged from the proposed rule.

CMP and BHE did comment that section 5.A.2 should be modified to state that profiles "may be" adjusted for weather or other conditions in accordance with the approved profiling methodologies. The existing rule implies that such adjustments must be made. The utilities are correct that under some methodologies, such adjustments would not occur. We, therefore, adopt the utilities' suggested modification.

F. Monthly Settlement (Section 6)

For the reasons discussed in section IV (E), above, we have added to the monthly settlement provision references to the Northern Maine ISA and a requirement that data be provided to the bulk power administrators by Load Asset I.D. Number. We received no comments on these amendments, and they are unchanged from the proposed rule.

CMP commented that the existing rule specifies that utilities will report hourly and monthly load "differences" to the ISO-NE, while it is CMP's understanding that the ISO-NE will require total energy numbers, not differences. In response, the amended rule uses more general language, replacing hourly and monthly load "differences" with hourly and monthly load "data." For consistency, we made the same change to the language in section 7.

G. Information Access (Section 7)

This section of the rule provides for the transfer of customer data to CEPs. The existing rule specified that CEPs must get customer authorization to obtain data pursuant to 35-A M.R.S.A. § 3205(3)(I). As explained in our recent Order Adopting amendments to Chapter 322 of our rules, the Legislature repealed 35-A M.R.S.A. § 3205(3)(I) during its last session and replaced it with a provision added to the licensing section of the restructuring statute. See Order Adopting Rule (Chapter 322), Docket No. 99-659 (Dec. 17, 1999). In our Chapter 322 rulemaking, we implemented the statutory provision on customer authorization of data transfers. In this amended

rule, we have deleted the reference to 35-A M.R.S.A. § 3205(3)(I) and have added cross-references to Chapter 322. We received no comments on this amendment, and it is unchanged from the proposed rule.

H. Data Transfer (Section 8)

This section requires data to be transferred among utilities and CEPs according to Commission-adopted Electronic Business Transaction (EBT) Standards. After the initial adoption of this rule, the Commission opened a rulemaking to adopt EBT standards (Chapter 323). We have, thus, added a cross-reference to Chapter 323 in this section of Chapter 321. We have also cross-referenced Chapter 322's requirement that each entity be responsible for the cost of transferring data. We received no comments on this amendment, and it is unchanged from the proposed rule.

I. Reporting (Section 9)

This section of the rule contains utility reporting requirements. The existing rule required utilities to file annual reports on March 1 of each year. The proposed rule provided for a June 1 filing date to coincide with the standard offer bid process time frame. We received no comments on this change and it is included in the amended rule.

MPS commented that the existing rule's requirement that utilities file a report describing their profiling methods by December 1, 1999 will be a burden. MPS stated that postponing the report until December 2000 would be preferable. Subsequently, MPS filed a request for a waiver of the report deadline until February 1, 2000 (Docket No. 99-853). Because it is necessary for CEPs to understand the profiling methods prior to March 2000, we will not extend the report deadline to December, 2000. We will, however, extend the rule's deadline to February 1, 2000.

Accordingly, we

O R D E R

1. That the attached Chapter 321, Load Obligation and Settlement Calculations for Competitive Providers of Electricity, is hereby adopted;
2. That the Administrative Director shall file the adopted rule and related materials with the Secretary of State;
3. The Administrative Director shall send copies of this Order and the attached rule to:
 - A. All electric utilities in the State;

B. All persons who have filed with the Commission within the past year a written request for Notice of Rulemaking;

C. All persons listed on the service list or filed comments in the Rulemaking, *Amendment to Chapter 321*, Docket No. 99-721;

D. All persons listed on the service list or filed comments in the Rulemaking, *Load Obligation and Settlement Calculations for Competitive Electricity Providers* (Chapter 321) Docket No. 98-496;

E. All persons listed on the service list or who filed comments in the Inquiry, *Inquiry into the Energy and Load Profiling and Settlement Functions for Transmission and Distribution Utilities in a Restructured Electric Industry*, Docket No. 97-861:

F. Executive Director of the Legislative Council, 115 State House Station, Augusta, Maine 04333-0115 (20 copies).

Dated at Augusta, Maine, this 17th day of December, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond